

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Josephine Bolt)	
)	
Plaintiff,)	CIVIL ACTION NO. <u>4:22cv1495</u> JD
)	
vs.)	
)	
Lowe's Home Centers, LLC d/b/a Lowe's)	
Home Improvement Store #1004 and)	
Sabrina Strickland, both individually and as)	
agent for Lowe's Home Centers, LLC d/b/a)	
Lowe's Home Improvement Store #1004,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Defendant Sabrina Strickland ("Strickland"), with the consent of defendant Lowe's Home Centers, LLC ("Lowe's"), by counsel, hereby removes Case No. 2022-CP-26-00037 from the Court of Common Pleas, County of Horry, South Carolina, to the United States District Court for the District of South Carolina, Florence Division, pursuant to §§ 1332, 1441 and 1446 of Title 28 of the United States Code.

1. On January 4, 2022, Plaintiff filed a Complaint in the Horry County Court of Common Pleas. This Complaint was served on Lowe's on January 10, 2022, a true and correct copy of which is attached hereto as Exhibit A.

2. The initial Complaint also named John Walling, a non-diverse defendant.

3. On March 24, 2022, Plaintiff filed a stipulation of dismissal as to defendant John Walling.

4. On April 26, 2022, Plaintiff filed an Amended Complaint in the Horry County Court of Common Pleas. This Amended Complaint named Sabrina Strickland (the Lowe's store manager on the date of the incident alleged in the Amended Complaint), as a defendant.

5. The Amended Complaint alleges that Josephine Bolt was shopping at a Lowe's store at 8672 US Highway 17 Bypass South in Myrtle Beach, South Carolina on September 18, 2019, when she tripped on a sign on the floor, causing her to fall and sustain severe bodily injuries. (Compl. ¶¶ 10 and 25).

6. Plaintiff is seeking actual, special, consequential, and punitive damages, for her alleged injuries. (Compl. ¶ 29).

7. This Notice of Removal is timely, in accordance with 28 U.S.C. §1446(b)(1), because less than thirty (30) days have elapsed since receipt by Strickland of the Amended Complaint adding Strickland as a defendant in this case.

8. Pursuant to 28 U.S.C. §1446(b)(2)(C), Lowe's consents to the removal of this case to Federal court.

9. Pursuant to 28 U.S.C. §1446(a), a copy of all process, pleadings, and orders served upon Strickland and Lowe's in said action is attached hereto as Exhibit A.

10. Venue for this removal action is proper pursuant to 28 U.S.C. §1441(a), because the original action was filed in Horry County, South Carolina, and the alleged incident on which the Plaintiff's claim is based, occurred at a Lowe's store located at 8672 US Highway 17 Bypass, in Myrtle Beach, South Carolina, which is in Horry County. Therefore, the alleged incident on which the Plaintiff's claim is based occurred in this Division, at 8672 US Highway 17 Bypass, in Myrtle Beach, South Carolina. (Compl. ¶ 9).

11. This is a civil action in which there is complete diversity of citizenship between Plaintiff and Defendants. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1441 because it could have been filed in this Court under 28 U.S.C. § 1332.

12. The Plaintiff is a citizen of Horry County, South Carolina. (Compl. ¶ 1).

13. Lowe's Home Centers, LLC is and was at the time of the filing of the Complaint a foreign limited liability company whose sole member is a corporation incorporated in North Carolina with its principal place of business in North Carolina. *See*, Defendant's Answers to Local Rule 26.01 Interrogatories. Accordingly, Lowe's Home Centers, LLC is not a citizen of South Carolina.

14. Sabrina Strickland is a resident and citizen of Jones County, North Carolina. Accordingly, Strickland is not a citizen of South Carolina.

15. Plaintiff alleges that she suffered a personal injury, for which she seeks actual, special, consequential, and punitive damages. (Compl. ¶¶ 29, and prayer for judgment).

16. The amount in controversy exceeds \$75,000.00. Plaintiff's Amended Complaint contains no limitation of damages, and in fact seeks actual damages as Plaintiff allegedly "was severely, seriously, painfully, and permanently injured"; suffered injuries about various parts of her body"; "suffered extreme and painful injuries"; "was and will be subjected to extreme pain, mental anguish, emotional distress, loss of enjoyment of life, suffering and discomfort over a long period of time"; and "has and will suffer a financial loss in the form of wages and future earning capacity". (Compl. ¶¶ 28(a); 28(b); 28(d); 28(g); and 28(i)). In addition to these alleged actual damages, Plaintiff also seeks punitive damages. (Compl. ¶¶ 29, and prayer for judgment).

17. Pursuant to 28 U.S.C. §1446(d), written notice of such filing will be given promptly to the Plaintiff by the undersigned counsel for Defendants, and copies of this Notice will be filed promptly with the Clerk of Court for Common Pleas for Horry County, South Carolina.

18. This case is being removed subject to and without waiver of any challenges that Defendants Strickland and Lowe's may have as to any claims or defenses that may be available to them.

WHEREFORE, because this Court has jurisdiction over this action pursuant to 28 U.S.C. §1332, removal of the above-styled case to this Court is appropriate.

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May 10, 2022